

## **Title 26: OIL, GAS, AND OTHER MINERALS**

### **Part 1: RULES OF ORDER AND PROCEDURE FOR HEARINGS BEFORE BOARD (Order No. 201-51 as amended by Order No. 95-98)**

#### **Part 1 Chapter 1**

**RULE 1.1 HEARINGS.** Hearings before the Mississippi State Oil & Gas Board shall be called by the Board for the purpose of taking any action in respect to any matter within its jurisdiction upon its own motion or upon the request or application of any interested party.

Upon receipt of a proper written request or petition for hearing, the Board shall place the request or petition on the docket, call a hearing within thirty (30) days after proper notice of the hearing and after such hearing and with all convenient speed, and in any event within thirty (30) days after the conclusion of the hearing, shall take action with regard to the subject matter thereof. In extra-ordinary cases, the Board may take matters under advisement no longer than three regular Board meetings to gather additional evidence it may need in order to render its final decision.

Regular monthly meetings shall be held by the Board on the third Wednesday of each month at a time and place specified in the minutes of the Board. All hearings shall be open to the public and be held in Jackson, Mississippi, at a place designated by the Board by entry on its minutes unless otherwise ordered by the Board.

Where circumstances permit, the Board, after sounding the docket, shall first call up and dispose of all motions and non-contested matters.

Subject to other provisions of these Rules, interested parties shall have the right to be heard at all hearings and to present witnesses and other evidence whether or not represented by legal counsel or technical assistance.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.2 PETITIONS OR REQUESTS FOR HEARING.** Petitions or requests for hearing shall be written and may be in the form of a letter, shall be brief and concise, shall state in general terms the matter upon which action of the Board is desired, the interest of the applicant or person making the request, the relief sought, and the reasons therefor. An original and one copy of the request or petition shall be filed but failure to file a copy shall not be grounds to reject the request or petition.

Any such petition or request for hearing shall be accompanied by a filing fee in the amount of \$100.00. The filing fee must be paid prior to the assignment of a docket number and therefore prior to placement on the Board's docket. Said filing fee is nonrefundable. Payment of the filing fee can be made in any form currently allowed by the Board's regulations concerning the cost of research and copying of Board records.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.3 DOCKETS AND FILE PROCEDURES.** The State Oil and Gas Supervisor (Supervisor) shall maintain a Docket Book and all petitions, and requests for hearings called on the motion of the Board shall be docketed and given a docket number, and a file carrying such number shall be opened by the Supervisor. All petitions for hearing, a copy of the notice of hearing, together with proof(s) of its publication, the originals of all instruments, documents, plats and other data except exhibits pre-filed pursuant to Rule 17, filed with the Board in connection with the hearing or the subject matter thereof, a transcript (if any) of all evidence taken at the hearing and the originals or copies of all correspondence with the Board concerning such hearing on the subject matter thereof shall be marked with the docket number of the hearing and placed and kept in the file carrying such number. The Docket Book and all files pertaining to hearings shall be open to the public at all reasonable times but shall not be removed from the custody of the Board or its employees. Copies of all such instruments, documents, plats, other data, and correspondence shall be furnished to any interested party upon payment of the cost of making such copies. All notices of hearing shall refer to the docket number thereof. Copies of petitions for hearing shall be furnished by the Supervisor to any person upon request and upon payment of the cost of making such copies.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.4 NOTICE OF HEARING.** Notice of public hearing held by the Board shall be given in the following manner:

(A) **NOTICE BY PUBLICATION.** Unless otherwise provided or required by statute or rule of this Board, notice of all hearings of the Board shall be given by publishing notice thereof at least twenty (20) days before the date of hearing in a newspaper published daily in Jackson, Mississippi, of general circulation in the state, and in a newspaper of general circulation in the county or counties in which the lands and pools involved are located whether published in or out of the county; provided that notice of a hearing on a statewide rule or order affecting all pools in the state shall be published twice in a newspaper published daily in Jackson, Mississippi, of general circulation in the state, the first publication appearing at least twenty (20) days before the date of hearing, and the second publication appearing at least ten (10) days before the hearing, and no other publication shall be necessary for such hearing.

The Supervisor shall maintain a general mailing list and shall place thereon the names and addresses of all persons, firms or corporations who make request in writing to be included on such list. Each person, firm and corporation on such mailing list shall be mailed at the address listed a copy of the monthly docket, and other notices of general interest as determined by the Supervisor. The failure to mail a copy to any such persons, firm or corporation shall not affect the validity of any hearing held pursuant to the notice published in accordance with these rules or any rule, regulation or order issued pursuant to such hearing.

(B) **PERSONAL NOTICE.** In all the instances noted below, the petitioner shall also give personal notice which shall be written notice specified in Rule 4 (C) below.

(1) **PETITIONS FOR EXCEPTION LOCATION AND INTENTIONAL DEVIATION.** Notice of hearing a petition to authorize a well to be drilled for oil or gas at a

location other than that authorized by rule or order of the Board (an exception location) or to approve the intentional deviation of a well shall be given by the petitioner to the operator of each adjoining or cornering unit toward which the well location is proposed to be moved or deviated.

**(2) PETITIONS TO AMEND OR REFORM ESTABLISHED DRILLING OR DEVELOPED UNITS.** Notice of hearing a petition to amend or reform an established drilling unit upon which a well has been spudded or reform a developed unit shall be given by the petitioner to (1) each Owner, (as defined in Statewide Rule 2[p]) in the established unit and (2) each Owner in the proposed amended or reformed unit. Determination of an Owner shall be from the public land records within 90 days prior to filing a Petition to reform or amend an established unit.

**(3) PETITIONS TO ESTABLISH OR AMEND ALLOWABLES.** Notice of hearing a petition to establish (by adoption of Special Field Rules or otherwise) or change the allowable for any developed unit shall be given by the petitioner to the Operator (as defined in Statewide Rule 2[r]) of each well completed in the same pool in the same field.

**(4) PETITIONS FOR FORCED POOLING.**

(a) Notice of hearing a petition to require the owners in an established or proposed drilling or developed unit to integrate or pool and develop their tracts or interests with other tracts or interests as a drilling or developed unit pursuant to § 53-3-7 (1) (a and b), Miss. Code of 1972 (force integration), shall be given by the petitioner to each non-consenting Owner. For the purposes of this rule, a "non-consenting Owner" shall mean an owner of drilling rights which has not agreed, in writing, to be integrated in the unit.

(b) Notice of hearing a petition to require the owners in an established or proposed drilling or developed unit to integrate or pool and to develop their tracts or interests with other tracts or interests as a drilling or developed unit, pursuant to § 53-3-7 (2), Miss Code of 1972 (force integration with alternate charges), shall be given in accordance with the provisions of said section.

**(5) PETITIONS FOR VOLUNTARY AND COMPULSORY UNITIZATION.**

(a) Notice of hearing a petition to approve a voluntary plan for unitized operations shall be given by the petitioner to the Operator of each well in a unit adjoining or cornering the voluntary unit and, as to a voluntary unit which does not cover the entire pool in the same field, to the Operator of each well in the pool in the same field not included in the voluntary unit.

(b) Notice of hearing a petition for a compulsory unit established pursuant to §§ 53-3-101 to 53-3-119, Miss. Code of 1972, shall be made in accordance with the provisions of said sections.

**(6) PETITIONS TO ESTABLISH OR AMEND SPECIAL FIELD RULES.** Notice of hearing a petition to establish or amend special field rules shall be given by the petitioner to the Operator of each well within the proposed or established field.

**(7) PETITIONS TO DETERMINE THE REASONABLENESS OF WELL COSTS.** Notice of hearing a petition pursuant to § 53-3-7 (4) Miss. Code of 1972, to determine the reasonableness of an Operator's costs for the drilling, completing and operating a well shall be

given by the petitioner to (1) the Operator, if not the petitioner, and (2) the other Owners, if any, responsible for such costs whose names have been given to the petitioner by the Operator. Prior to filing the petition, the petitioner shall request in writing from the Operator, and the Operator shall furnish to the petitioner within thirty (30) days after receipt of the request, the names and mailing addresses known to the Operator of all parties responsible for well costs.

**(8) PETITIONS REGARDING MULTIPLE WELLS ON A UNIT.** Notice of hearing a petition to drill, produce or operate more than one well on the same unit perforated in or producing from the same pool shall be given by the petitioner to each Operator of each unit currently producing from the same pool in the same field.

**(9) PETITIONS REGARDING DOWN HOLE COMMINGLING.** Notice of hearing a petition to commingle down hole production of oil or gas from more than one pool in a single well in the same field shall be given by the petitioner to each Operator of each unit currently producing from any pool in the same field for which commingling is proposed.

**(10) PETITIONS FOR INJECTION WELLS.** Notice of hearing a petition to operate an Underground Injection Control Class II Well, pursuant to Statewide Rule 63, shall be given by the petitioner (applicant) in accordance with the provisions of Statewide Rule 63 and personal notice to all Operators of wells producing oil or gas (or having previously produced and not plugged and abandoned) from the pool or pools into which the injection will be made.

**(11) PETITION FOR UNIT EXCEPTION.** Notice of hearing a petition for an exception to unit size or configuration shall be given by the Petitioner to the Operator of each adjoining or cornering unit.

**(C) MANNER AND TIME OF PERSONAL NOTICE.**

(1) Whenever personal notice is required to be given in writing, the form and content of such notice shall be sufficient if it is the same as the published notice or, if in a different form, the notice contains the same information.

(2) When, pursuant to the provisions of Rule 4(B) above, the petitioner is required to give personal notice to any person, such notice shall be given at least twenty-five (25) days prior to the date of the hearing unless a greater period of time is required by another rule.

(3) In those cases where notice is to be given by the petitioner, the petitioner shall make a reasonably diligent effort to determine the name and mailing address of each such person. If, after the exercise of reasonable diligence, the petitioner is unable to determine the name and mailing address of any person upon whom notice is to be served by the petitioner, the publication provided for in Rule 4(A) above, shall be effective as service upon such person.

(4) If the petitioner shall fail to give notice in conformity with the provisions in Rule 4(B) upon any person whom the petitioner is required to give notice, the Board, may, nevertheless, proceed to hear the petition if it is shown to the satisfaction of the Board that the person in question had actual knowledge of the hearing of the petition at least ten (10) days prior to the date of the hearing.

(5) A copy of the petition shall be attached to the notice.

(6) Personal notice required to be given may be given in any manner used in written business communications including, but not limited to, ordinary first class mail, expedited delivery such as express mail and air express services, facsimile transmission, hand delivery, electronic mail and Western Union mailgram except as otherwise required by statute or statewide rule.

(7) Notice shall be deemed given when sent.

(8) The time period and manner provided for herein for the giving of notice may be waived in writing by any person as to that person's interest only.

(9) Except where expressly required to the contrary by applicable statutes, where personal notice is provided for in these rules the name or names of the person or persons to whom notice is being given need not appear in the notice. It shall be sufficient for such person or persons to be referred to generally such as, for example, "owners", "persons" and "operators".

(10) Notice required to be given to an Operator shall mean the Operator as reflected by the Board's records for wells producing, drilling or permitted not more than forty-five (45) days prior to the filing of the petition.

(11) Failure to give notice as provided for in Rule 4(C) shall not affect the validity, effectiveness or legality of any order or action of the Board provided the Board determines the petitioner has made a reasonably diligent effort to give the personal notice required herein.

**(D) FORM AND CONTENT OF NOTICE BY PUBLICATION AND PERSONAL NOTICE.** The notice shall be substantially in the following form:

**STATE OIL AND GAS BOARD OF MISSISSIPPI  
NOTICE**

To all owners and persons interested in the following described lands: (here describe lands by legal description and field, if any) Take notice (insert name of party or parties requesting hearing) has filed a petition (or application) with the State Oil and Gas Board of Mississippi under Docket No. requesting that (here relief requests). The petition will be heard by the Board at \_\_\_\_ o'clock \_\_\_\_ m. on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, in \_\_\_\_\_ Jackson, Mississippi, at which time and place you may appear and contest said matter.

If you intend to contest the docket or request a continuance you must notify the Board and the petitioner's representative of your intention in writing not later than 5 p.m. on Tuesday, day of \_\_\_\_\_, 19\_\_, (seven (7) days prior to the date stated above for the hearing). Failure to so notify the Board and the petitioner shall be a waiver of your right to contest or request continuance.

You are advised the Board may adopt orders concerning a petition which may differ from the relief requested by the petitioner and Board will enter such order or orders as in its judgment may be appropriate in accordance with the evidence presented.

Supervisor State Oil and Gas Board

**(E) PROOF OF NOTICE BY PUBLICATION AND PERSONAL NOTICE.** Proof of notice by publication shall be by affidavit of the publisher or editor (or his duly authorized agent) of the newspaper in which publication is made. Proof of notice other than by publication shall be either by testimony or by affidavit of the Board's staff member or the petitioner or petitioner's agent or attorney. If, in the exercise of reasonable diligence as provided in Rule 4(C), above, the petitioner is unable to obtain the name and the mailing address of any person or person upon whom personal notice is to be given by the petitioner, the testimony presented or the affidavit filed by the petitioner shall so state.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.5 CONTINUANCE OF HEARINGS.**

(A) All motions for continuance of contested matters shall state the reason for continuance.

(B) Parties other than petitioner who desire to continue a matter must (1) notify by telephone the petitioner or the petitioner's representative set forth in the petition and the Board of the motion for continuance not later than 5 p.m. on Tuesday of the week which precedes the regular monthly Board Meeting; and (2) mail or deliver a copy of the motion for continuance to said petitioner's representative and the Board not later than 5 p.m. on Tuesday of the week which precedes the regular monthly Board Meeting.

(C) On any contested matter, Petitioner desiring a continuance must request a continuance not later than 5 p.m. on Thursday of the week which precedes the regular monthly Board Meeting by notifying the Board and anyone who has filed a notice of contest. This notice shall be by telephone, followed by written notice, mailed or delivered to the Board and any contesting party or his representative on the same day.

(D) On any non-contested matter, petitioner may move for a continuance at the docket call at the regular meeting for cause stated.

(E) Petitioner and any other interested party may waive the notice requirements of paragraphs 5(B) and 5(C), supra, and agree to a continuance.

(F) The time limit for argument on motions for continuance shall be set by the Board at the time the motion is heard. Movant shall present his argument first and may reserve part of his time for rebuttal.

(G) As a general rule no more than one continuance of a docket will be granted at the request of a person other than petitioner.

(H) The foregoing notwithstanding, the Board may grant continuances in exceptional circumstances even though there has not been compliance with paragraphs 5(a) through 5(e).

(I) Once proper notice of a hearing has been given, additional notice shall not be required for any continuance of that hearing.

*Source: MCA Section 53-1-17(3) (1972)*

## **RULE 1.6 CONTESTED HEARINGS**

### **(A) NOTICE OF CONTEST.**

(1) If an interested person desires to contest a petition or docket, then not later than 5 p.m. on Tuesday of the week which precedes the regular monthly Board Meeting the contestant shall deliver to the petitioner's representative set forth in the petition and to the Board a written "notice of contest" setting forth that the petition or docket will be contested, the name and address of the contestant, and a brief statement of the known reason(s) for the contest but failure to state all reasons will not be a waiver of the right to contest. If the written notice of contest cannot be actually delivered by the said deadline, then the notice requirement may be satisfied if on or before the said deadline contestant (a) gives the said petitioner's representative and the Board verbal notice (by telephone or in person) of the contents of the written notice and (b) transmits the required written notice so that it is to be received by said petitioner's representative and by the Board by the close of business on the next working day.

(2) A notice of contest may be combined with a motion to continue and/or a motion to dismiss, or any other responsive pleading.

(3) Absent good cause shown, the failure to give the notice of contest as provided in 6(A)(1) above shall be deemed to be a waiver of the right to contest.

(4) For purposes of Rule 6(A), a statement or writing in opposition to a petition shall not be considered a contest unless the person in opposition intends to cross examine witnesses and/or introduce evidence.

### **(B) EXCHANGE OF WITNESS LISTS AND EXHIBITS.**

(1) Not later than Thursday of the week which precedes the regular monthly Board Meeting at which the petition is to be heard, the petitioner and contestant(s) shall exchange a copy of proposed exhibits, and a list of may call witnesses and their areas of expertise. At this time, the contestant shall file his exhibits with the Board.

(2) If it becomes necessary for a party to substitute a witness, the party shall promptly give the opposing party(ies) notice of the substitution by the most expeditious means, including telephone.

(3) The parties may agree in writing to shorten or lengthen the time(s) for the exchange of witness lists and exhibits, or even to dispense with the exchange. Additionally, the Board may enter a scheduling order which sets the time(s) for said exchange.

(4) If a continuance of a petition or docket is agreed to, then the time periods for exchanging exhibits and witness lists shall apply to the hearing at which the petition or docket is scheduled to be heard.

### **(C) CONDUCT OF CONTESTED HEARING.**

(1) In general, a contested hearing shall follow this order: opening statements, petitioners' case, contestants' case, petitioners' rebuttal, closing statements.

**(D) PREHEARING CONFERENCE.**

(1) The Supervisor or the Chairman of the Board may after exhibits have been exchanged between or among the parties, call for a prehearing conference with or between the parties to a contested docket. The prehearing conference may be noticed to be held before the Supervisor or the Board or one or more staff members or such other person(s) as the notice may designate. The parties to a contested docket shall be given reasonable advance notice of the prehearing conference by the most expeditious means, including by telephone. All prehearing conferences shall be held in Jackson, Mississippi unless the Supervisor or the Chairman of the Board, designates a place other than Jackson.

(2) The prehearing conference may be called for any purpose(s), including to identify and narrow the issues of fact and questions of law, if any, simplify the proof and, if possible, resolve the contest.

(3) Any party to a contested docket may request that the Supervisor or the Chairman of the Board call a prehearing conference, the actual calling of which shall be in the discretion of the Supervisor or the Chairman of the Board, as the case may be.

**(E) SCHEDULING ORDER.**

(1) The Board may enter such scheduling order(s) in a contested docket as it deems necessary or advisable including orders setting prehearing conference(s), and providing for the exchange of exhibits, witness lists and the filing of briefs.

(2) Any party to a contested docket may request the entry of a scheduling order, the entry of which shall be at the discretion of the Board.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.7 EMERGENCY HEARINGS.** Emergency action may be taken by the Board without notice and hearing in the event the Board finds immediate action is necessary in order to prevent waste, to prevent irreparable injury or for some other cause, but each emergency rule, regulation and order shall provide that it will remain in force no longer than forty-five (45) days from its effective date. Immediately upon entering an emergency rule, regulation or order, the Board shall call a hearing on the subject matter thereof, and such hearing shall be held prior to the expiration of the emergency rule, regulation or order.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.8 EX PARTE COMMUNICATIONS.** After the announcement of, or notice of intention to contest any petition or application for relief submitted to this Board, there shall be no ex parte contacts relating to the facts or merits of the petition between (a) any person acting on behalf of the petitioner or applicant for the relief desired or any person opposed to the application



or petition and (b) any person with the State Oil and Gas Board of Mississippi who exercises any responsibility in relation to whether the application or petition is granted or denied.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.9 HEARING PROCEDURES.** The hearings shall be opened with the call of the docket. The request for hearing, the notice or notices thereof and proof of the due publication of the notice or notices of the hearing shall be made a part of the record of the hearing. Opening and closing statements may be made by the party or parties involved in a hearing.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.10 ORDERS OF THE BOARD.**

(A) The prevailing party in any hearing before the Board shall prepare a proposed Order for review and approval by the Board which shall specify findings of fact and conclusions of law. If an uncontested matter is denied the Board shall inform the party of the reasons for the denial so that the party can prepare the Order. Upon written request of any party to a contested docket, the Board shall include in its Order or separately render written findings of fact and conclusions of law setting forth the reasons for the Board's decision. The request may be made either before or after the hearing.

(B) For all uncontested matters that have been approved by the Board whether by affidavit or after a hearing, the petitioner shall prepare and mail or hand deliver a proposed order to the Board not later than 5 p.m. Monday following the regular Board Meeting if heard and decision made on Wednesday or 5 p.m. Tuesday if heard and/or decision made on the Thursday following the Wednesday of docket call after the hearing.

(C) For all contested matters before the Board, the prevailing party shall mail or hand deliver to the Board and all parties participating in the hearing a proposed order not later than 5 p.m. Wednesday following the regular Board Meeting if heard and decision made on Wednesday or 5 p.m. Thursday if heard and/or decision made on the Thursday following the Wednesday of docket call for the prevailing party to deliver a proposed order to other participating parties after the hearing on the matter concludes. The parties receiving the proposed order shall prepare and mail or hand deliver any objections in writing not later than 5 p.m. on Tuesday following the aforementioned Wednesday or 5 p.m. on Wednesday following the aforementioned Thursday to respond with objections to proposed order, if any, after receipt. If the parties cannot agree as to the form of the Order, the Board shall determine the proper form and inform the prevailing party who shall incorporate any necessary changes and submit the order for the Board.

(D) On all matters heard by the Board, the signed Order shall be filed with the Board with all deliberate speed but in no event more than thirty (30) days after the final decision.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.11 TRANSCRIPT OF HEARING.** The Board shall, from time to time, by order entered on its minutes appoint a competent shorthand reporter. All hearings of the Board shall

be recorded by a reporter appointed by the Board and sworn by the Board faithfully to discharge his/her duties in accordance with law and the direction of the Board.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.12 SUBPOENAS.** In any proceeding before the Board, the Board in its discretion, may issue subpoenas requiring the attendance of witnesses and the production of books, papers and records material to the matters lawfully before the Board at the designated place of hearing.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.13 PROOF OF NOTICE AND SERVICE.** The petition or request for the hearing, the notice or notices thereof and the proof of the due publication or service of notice or notices of the hearing shall automatically become a part of the record.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.14 WITNESSES.** All witnesses shall be required to testify under oath, administered by a member of the Board or the Supervisor, to tell the truth, the whole truth and nothing but the truth; all witnesses shall be subject to direct and cross-examination by any member of the Board, Board Staff or by any party or parties interested in the hearing or by their representatives.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.15 AFFIDAVITS.**

(A) Where an application has been filed with the Board for authority to multiply complete or to tubingless complete an oil or gas well in connection with other surface or subsurface mechanical connections and installations and where legal notice of the hearing of said application has been given as required by law and the rules of the Board and where said application is not contested when called for hearing by the Board, then the Board may receive in evidence on said hearing affidavits, exhibits and duly executed Board forms as to the manner in which said multiple or tubingless completions are to be made, provided, however, that the Board has previously approved a similar completion for the field, pool or pools in question after a notice and hearing or witnesses in person.

(B) Where an application for an injection well and system has been filed with the Board and where legal notice has been given as required by law and the Board's rules and where said application is not contested when called for hearing, then affidavits, exhibits and Board forms may be received in evidence at the hearing as to the manner in which said injection well and system is to be completed and regardless of whether or not the Board has previously approved, after notice and hearing of witnesses, a similar application for the pool or field.

(C) Where an application for force integration of a drilling unit has been filed with the Board and when legal notice has been given as required by law and when said application is not contested when called for hearing, then affidavits, exhibits and Board forms may be received in

evidence at the hearing. The Board reserves the right to reject any and all such affidavits and exhibits and to require the affiant or affiants to appear in person and testify at the hearing.

(D) Where an application for reformation of a regular drilling unit which complies in all respects with the existing Statewide Rules and Regulations into another unit which similarly complies, and where there is no change in ownership whereby any party would be adversely affected, and where no island acreage would be created thereby, when legal notice has been given as required by law and said application is not contested when called for hearing, then affidavits, exhibits and Board forms may be received in evidence at the hearing. The Board reserves the right to reject any and all such affidavits and exhibits and to require the affiant or affiants to appear in person and testify at the hearing.

(E) Where an application for the directional drilling of a well for topographic reason(s) which encounters the pay zone(s) at a regular location within a regular unit has been filed with the Board and when legal notice has been given as required by law and when said application is not contested when called for hearing, then affidavits, exhibits and Board forms may be received in evidence at the hearing. The Board reserves the right to reject any and all such affidavits and exhibits and to require the affiant or affiants to appear in person and testify at the hearing.

(F) Where an application for an exception location on a regular unit for reason(s) of topographic and/or surface obstructions has been filed with the Board and when legal notice has been given as required by law and when said application is not contested when called for hearing, then affidavits, exhibits and Board forms may be received in evidence at the hearing. The Board reserves the right to reject any and all such affidavits and exhibits and to require the affiant or affiants to appear in person and testify at the hearing.

(G) Where an application for the surface commingling where the ownership is the same for each well has been filed with the Board and when legal notice has been given as required by law and when said application is not contested when called for hearing, then affidavits, exhibits and Board forms may be received in evidence at the hearing. The Board reserves the right to reject any and all such affidavits and exhibits and to require the affiant or affiants to appear in person and testify at the hearing.

(H) In all other non-contested matters or in contested matters where those parties who appear in person at the hearing agree thereto, affidavits may be received in evidence. The Board reserves the right to reject any and all such affidavits and to require the affiant to appear in person.

(I) The following applies to the filing of affidavit in Rule 15. The party(ies) planning to submit a petition by affidavit shall file the original and three (3) copies of the affidavit with appropriate exhibits with the Board not later than 5 p.m. on Monday of the week which precedes the day of the Hearing. The original with the appropriate exhibits shall be filed with the Board Reporter upon the call of the docket for proper marking and entered into the record. All materials shall have the proper docket number upon each item. The original and three copies sent to the Board along with the proper exhibits shall not be held as confidential, unless confidentiality is requested in writing by the Petitioner at the time of filing. If confidentiality is

requested, the exhibits will not be part of the public record and will not be available for public inspection.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.16 EVIDENCE.** The materiality, relevancy and competency of any testimony shall be subject to challenge by any party to the hearing or by any member of the Board or Board staff. When so interposed, such objections shall be acted upon by the Chairman or by the Acting Chairman, his ruling thereon being subject to change by a majority vote of the board members then sitting.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.17 EXHIBITS.** One copy of all exhibits to be used by Petitioner in its direct presentation at the hearing before the Board shall be prefiled with the Supervisor not later than 5 p.m. on Monday of the week which precedes the day of the Hearing. This prefiled copy is for staff use only and will not be part of the public record nor be available for public inspection. At least nine (9) copies of said exhibit shall be presented at the time of the hearing.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.18 IN CONFORMITY WITH STATUTES.** These rules are in addition to and supplement those statutory provisions which may be applicable to hearings before the Board.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.19 EFFECTIVE DATE.** The foregoing Amended Rules of Order and Procedure shall be in full force and effect in all future proceedings before the Board commencing February 1, 1998. This Order supersedes former Rules of Order and Procedure for Hearing before the Board adopted in Order No. 201-51, as amended, Order No. 3-90, as amended by Order No. 430-90. The Board may, from time to time, after notice and hearing, repeal, amend or supplement these Rules of Order and Procedure.

*Source:* MCA Section 53-1-17(3) (1972)

**RULE 1.20 RULES AFFECTING MEDIA COVERAGE.** Television camera personnel and media photographers may not disturb the decorum of the Board hearing. Video cameras and photographers shall be positioned in the hearing room as directed by the Board or the Supervisor and may not move to another location until Board recesses or breaks. No artificial lighting or flash attachments may be used and no disruptive noise will be permitted.

*Source:* MCA Section 53-1-17(3) (1972)